

AN ORDINANCE amending the City of
Fort Wayne Zoning Ordinance.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
FORT WAYNE, INDIANA:

SECTION 1. That Section 33-3 P. be deleted in its
entirety and replaced with the following:

Section 33-3

P. Certificate of Compliance - A certificate issued by the
Zoning Enforcement Officer stating that the occupancy
and use of land or a building or structure referred to
therein complies with the provisions of this chapter.

SECTION 2. That Section 33-14 B (3) be deleted in its
entirety and replaced with the following:

Section 33-14 B

(3) Limited Group Home, provided that not more than two (2)
homes or halfway houses in any combination as outlined
by definitions (BB), (FF), and (LL) of Section 33-3
shall be located in any block group and that no more
than one group home or half-way house be located on a
block face without a prior approval of the Board of
Zoning Appeals (see definitions for block groups and
block faces). In no event shall any of the above uses
be contiguous. Certificate of Compliance required in
all cases.

SECTION 3. That Section 33-14 C (9) be deleted in its
entirety and replaced with the following:

Section 33-14 C

(9) Half-Way House, provided that not more than two (2)
group homes or half-way houses in any combination as
outlined by definitions (BB), (FF) and (LL) of section
33-3 shall be located in any block group and that not
more than one group home or half-way house be located
on a block face without prior approval of the Board of
Zoning Appeals (see definitions for block groups and
block faces). In no event shall any of the above uses
be contiguous. Certificate of Compliance required in
all cases.

SECTION 4. That Section 33-16 B. (5) k. be deleted in
its entirety and replaced with the following:

Section 33-16 B. (5)

k. In no event shall the Zoning Enforcement Officer issue
an Improvement Location Permit or a Certificate of

1 Compliance for a use where the density exceeds one
2 thousand (1,000) square feet per living unit for
3 structures of three (3) to five (5) stories and one
4 thousand two hundred fifty (1,250) square feet for
5 structures two (2) stories or less except by action of
6 the Board of Zoning Appeals.

7 SECTION 5. That Section 33-21 Certificate of Occupancy
8 be deleted in its entirety and replaced with the following:

9 Section 33-21 Certificate of Compliance

10 A. No occupancy, use or change of use, except buildings
11 incidental to non-residential agricultural uses shall
12 take place until a certificate of occupancy shall have
13 been applied for in writing and issued by the Zoning
14 Enforcement Officer, in the following cases:

- 15 (1) Occupancy and use of a building or structure
16 hereafter erected or enlarged.
- 17 (2) Change in use of an existing building or
18 structure.
- 19 (3) Occupancy and use of vacant land except for the
20 raising of crops.
- 21 (4) Change in the use of land to a use of a different
22 classification except for the raising of crops.
- 23 (5) Any change in use of a nonconforming use.

24 B. If the purposed use is in conformity with the
25 provisions of this chapter, the Certificate of
26 Compliance therefore shall be issued within three (3)
27 days after the application for the same has been made;
28 provided, however, that no Certificate of Compliance
29 shall be issued in connection with the construction,
30 alteration, enlargement or moving of a building or
31 structure until such construction, alteration,
32 enlargement or moving shall have been completed. Each
Certificate of Compliance shall state that the building
or proposed use of a building or land complies with all
the provisions of this chapter.

33 C. All improvements in any subdivision duly recorded after
34 July 1, 1964, shall be installed in a manner that
35 complies with the general and detailed specifications
36 handbook adopted by the Board of Public Works of the
37 City on August 14, 1961, and any amendments thereof
38 which have been or may be duly adopted by such board
39 from time to time, before a Certificate of Compliance
40 shall be issued. A Certificate of Compliance for any
41 use lying within the jurisdiction of the City Plan
42 Commission of the City shall not be issued until all
contractual inspection costs or inspection fees
required by General Ordinance No. G-40, adopted on
August 25, 1959, and appearing as Title 28A in the 1959
edition of the Municipal Code of the City, and any
amendments thereof, have been paid to the Engineering
permit office.

SECTION 6. That Section 33-44 A be deleted in its entirety and replaced with the following:

Section 33-44 A

No development in the Floodplain Districts shall take place unless the Zoning Enforcement Officer first grants an Improvement Location Permit. The Zoning Enforcement Officer shall review all applications for Improvement Location Permits for development including new construction, additions to existing construction, or other development to ascertain whether the proposed development lies in the Floodplain District. If the Permit Application pertains to property in the Floodplain District, then the applicant must meet the following criteria before receiving an Improvement Location Permit and Certificate of Compliance.

SECTION 7. That Section 33-44 F (2) be deleted in its entirety and replaced with the following:

Section 33-44 F

- (2) The Director of the Division of Community Development and Planning or his/her representative, may attach such conditions in the granting of Improvement Location Permits and Certificate of Compliance Permits as it deems necessary to further the purpose of this article. Any decision of the Director of the Division of Community Development and Planning or his/her representative, may be appealed to the Board of Zoning Appeals.

SECTION 8. That Section 33-47 be deleted in its entirety and replaced with the following:

Section 33-47 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice or debris jams. This article does not imply that areas outside the Floodplain District as defined herein, will be free from flooding or flood damages. This does not create liability on the part of the State of Indiana, the Indiana Department of Natural Resources, the Board of Zoning Appeals, the Plan Commission of the City of Fort Wayne, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder. No Improvement Location Permit nor Certificate of Compliance shall be granted for any development or any other kind of work in an area covered by this article unless the applicant first executes a document upon forms provided by the City holding the City and State harmless and waiving the City's and State's liability for any flood damage.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the

Mayor.

Janet H. Bradbury
Councilmember

APPROVED AS TO FORM AND LEGALITY:

J. Timothy McCaulay
J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Bradbury, seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock, _____ M., E.S.T.

DATE: 5-9-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Long, seconded by Talarico, and duly adopted, placed on its passage. ~~PASSED~~ LOST by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT</u>
<u>TOTAL VOTES</u>	<u>7</u>	<u> </u>	<u> </u>	<u>2</u>	<u>2</u>
<u>BRADBURY</u>	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>	<u> </u>
<u>BURNS</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>GIAQUINTA</u>	<u> </u>	<u> </u>	<u> </u>	<u>✓</u>	<u> </u>
<u>HENRY</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>LONG</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>REDD</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>SCHMIDT</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>STIER</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u>TALARICO</u>	<u>✓</u>	<u> </u>	<u> </u>	<u> </u>	<u> </u>

DATE: 6-13-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. D-14-89 on the 13th day of June, 1989,

ATTEST:

SEAL

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of June, 1989, at the hour of 10:00 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day of June, 1989, at the hour of 5:15 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

FACT SHEET

G-89-05-09

**Division of Community
Development & Planning****BILL NUMBER****BRIEF TITLE****APPROVAL DEADLINE****REASON**

Zoning Ordinance Amendment

DETAILS**Specific Location and/or Address**

N/A

Reason for Project

To clear up a source of confusion, since the Building Department and Land Use Management both issue a Certificate of Occupancy at the present.

Discussion (Including relationship to other Council actions)17 April 1989 - Public Hearing

V.C. Seth, Director of Planning, stated that the Zoning Ordinance in several areas refers to a Certificate of Occupancy which is to be issued after a project is completed. He stated that the Building Department also issues a Certificate of Occupancy. He stated that in order to clear up the confusion created by two identically named certificates they are requesting that the city change its to "Certificate of Compliance". He stated that when this is changed in the ordinance we will issue our "Certificate of Compliance" to the Building Department and based upon that they will issued a Certificate of Occupancy.

There was no one else present who wished to speak in favor of or in opposition to the proposed amendment.

POSITIONS**RECOMMENDATIONS****Sponsor**

City Plan Commission

Area Affected

City Wide

Other Areas

**Applicants/
Proponents****Applicant(s)**

Land Use Managment - C&ED
City Department

Other

Opponents**Groups or Individuals**

Basis of Opposition

**Staff
Recommendation**☒ For ☐ Against

Reason Against

**Board or
Commission
Recommendation****By**☒ For ☐ Against
☐ No Action Taken☐ For with revisions to conditions
(See Details column for conditions)**CITY COUNCIL
ACTIONS
(For Council
use only)**

☐ Pass ☐ Other
☐ Pass (as amended) ☐ Hold
☐ Council Sub. ☐ Do not pass

DETAILS

24 April 1989 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation.

Of the nine (9) members present, eight (8) voted in favor of the motion, one (1) did not vote. Motion carried.

POLICY/PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No <input type="checkbox"/> Yes
Operational Impact Assessment	

(This space for further discussion)

Project Start

Date 17 April 1989

Projected Completion or Occupancy

Date 11 May 1989

Fact Sheet Prepared by

Date 11 May 1989

Patricia Biancaniello

Reviewed by

Date

Uch

May 15, 1989

Reference or Case Number

Proposed amendment to the Zoning Ordinance

Purpose: Over recent years there has been a certain amount of confusion among builders and contractors due to the fact that both the Building Department and the Division of Land Use Management issue Certificates of Occupancy. While the Building Department addresses the construction standards, the Land Use Management section verifies permitted uses and other Zoning Ordinance requirements.

One of the easiest solutions to this confusion is to change the name of one of these certificates. In order to expedite that change, these amendments are being proposed.

The proposed text is as follows:

Section 33-3

P. Certificate of Occupancy Compliance - A certificate issued by the Zoning Enforcement Officer stating that the occupancy and use of land or a building or structure referred to therein complies with the provisions of this chapter.

Section 33-14 B

(3) Limited Group Home, provided that not more than two (2) homes or halfway houses in any combination as outlined by definitions (BB), (FF), and (LL) of Section 33-3 shall be located in any block group and that no more than one group home or half-way house be located on a block face without a prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy Compliance required in all cases.

Section 33-14 C

(9) Half-Way House, provided that not more than two (2) group homes or half-way houses in any combination as outlined by definitions (BB), (FF) and (LL) of section 33-3 shall be located in any block group and that not more than one group home or half-way house be located on a block face without prior approval of the Board of Zoning Appeals (see definitions for block groups and block faces). In no event shall any of the above uses be contiguous. Certificate of Occupancy Compliance required in all cases.

Section 33-16 B. (5)

- k. In no event shall the Zoning Enforcement Officer issue an Improvement Location Permit or a Certificate of Occupancy Compliance for a use where the density exceeds one thousand (1,000) square feet per living unit for structures of three (3) to five (5) stories and one thousand two hundred fifty (1,250) square feet for structures two (2) stories or less except by action of the Board of Zoning Appeals.

Section 33-21 Certificate of Occupancy Compliance

- A. No occupancy, use or change of use, except buildings incidental to non-residential agricultural uses shall take place until a certificate of occupancy shall have been applied for in writing and issued by the Zoning Enforcement Officer, in the following cases:
- (1) Occupancy and use of a building or structure hereafter erected or enlarged.
 - (2) Change in use of an existing building or structure.
 - (3) Occupancy and use of vacant land except for the raising of crops.
 - (4) Change in the use of land to a use of a different classification except for the raising of crops.
 - (5) Any change in use of a nonconforming use.
- B. If the purposed use is in conformity with the provisions of this chapter, the Certificate of Occupancy Compliance therefore shall be issued within three (3) days after the application for the same has been made; provided, however, that no Certificate of Occupancy Compliance shall be issued in connection with the construction, alteration, enlargement or moving of a building or structure until such construction, alteration, enlargement or moving shall have been completed. Each Certificate of Occupancy Compliance shall state that the building or proposed use of a building or land complies with all the provisions of this chapter.
- C. All improvements in any subdivision duly recorded after July 1, 1964, shall be installed in a manner that complies with the general and detailed specifications handbook adopted by the Board of Public Works of the City on August 14, 1961, and any amendments thereof which have been or may be duly adopted by such board from time to time, before a Certificate of Occupancy Compliance shall be issued. A Certificate of Occupancy Compliance for any use lying within the jurisdiction of the City Plan Commission of the City shall not be issued until all contractual inspection costs

or inspection fees required by General Ordinance No. G-40, adopted on August 25, 1959, and appearing as Title 28A in the 1959 edition of the Municipal Code of the City, and any amendments thereof, have been paid to the Engineering permit office.

Section 33-44 A

No development in the Floodplain Districts shall take place unless the Zoning Enforcement Officer first grants an Improvement Location Permit. The Zoning Enforcement Officer shall review all applications for Improvement Location Permits for development including new construction, additions to existing construction, or other development to ascertain whether the proposed development lies in the Floodplain District. If the Permit Application pertains to property in the Floodplain District, then the applicant must meet the following criteria before receiving an Improvement Location Permit and Certificate of ~~Occupancy~~ Compliance.

Section 33-44 F

- (2) The Director of the Division of Community Development and Planning or his/her representative, may attach such conditions in the granting of Improvement Location Permits and Certificate of ~~Occupancy~~ Compliance Permits as it deems necessary to further the purpose of this article. Any decision of the Director of the Division of Community Development and Planning or his/her representative, may be appealed to the Board of Zoning Appeals.

Section 33-47 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this article is considered reasonable for regulatory purposed and is based on engineering and scientific consideration. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice or debris jams. This article does not imply that areas outside the Floodplain District as defined herein, will be free from flooding or flood damages. This does not create liability on the part of the State of Indiana, the Indiana Department of Natural Resources, the Board

of Zoning Appeals, the Plan Commission of the City of Fort Wayne, or any elected or appointed official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder. No Improvement Location Permit nor Certificate of ~~Occupancy~~ Compliance shall be granted for any development or any other kind of work in an area covered by this article unless the applicant first executes a document upon forms provided by the City holding the City and State harmless and waiving the City's and State's liability for any flood damage.

#391
ORIGINAL

DIGEST SHEET

ORIGINAL

TITLE OF ORDINANCE Zoning Ordinance Amendment 2-89-05-09

DEPARTMENT REQUESTING ORDINANCE Land Use Management - C&ED

SYNOPSIS OF ORDINANCE This amendment will change all references in the Zoning Ordinance from "Certificate of Occupancy" to "Certificate of Compliance", thus avoiding confusion between our permit, and a permit issued by the Allen County Building Department.

EFFECT OF PASSAGE Changes language of text, but not context.

EFFECT OF NON-PASSAGE Allows for potential confusion with two different permits having the same name.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE (J.N.) _____

BILL NO. G-89-05-09

Should be for
6/13

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
STIER, SCHMIDT, TALARICO

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City
of Fort Wayne Zoning Ordinance

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND
BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID

(ORDINANCE) (~~RESOLUTION~~) Do

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Janet G. Bradbury
David C. Long
Samuel J. Talarico
Stier

DATED: 6-13-89

Sandra E. Kennedy
City Clerk